
OVERVIEW

The Family Division of the Circuit Court regularly reviews the status of temporary court wards, permanent court wards, and Michigan Children's Institute (MCI) wards. These hearings are open to the public unless specifically closed by the court. Any party to the proceeding may request the court close the hearing.

The court retains the authority for continuing or terminating Michigan Department of Health and Human Services (MDHHS) responsibility for temporary and permanent court wards. The supervising agency retains responsibility for the supervision of children returned to their families following temporary foster care placement until the Family Division of the Circuit Court issues an order dismissing such responsibility.

The MCI superintendent has authority over MCI wards, pursuant to the Michigan Children's Institute Act, MCL 400.201 *et seq.* MCI wards are not under the jurisdiction of the court under the Probate Code, MCL 712A.2.

State wards committed to the department under the Probate Code, MCL 712A.1 through MCL 712A.32 are also not under the jurisdiction of the court but are under the authority of the MCI superintendent pursuant to MCL 710.28(8), the Adoption Code.

Note: Even though these children are not under the court's jurisdiction, the court will continue to hold dispositional review hearings.

COURT HEARING NOTIFICATION REQUIREMENTS

State and federal law requires courts to ensure certain parties are notified of proceedings held with respect to a child under the jurisdiction of the court. To facilitate this process the supervising agency is required to provide notification of all court proceedings to the following:

- The child if the child is 11 years or older.
- The foster parents, relative caregivers, court-ordered unrelated caregivers, and pre-adoptive parents.
- The non-offending parent if the child is placed with that parent.

The supervising agency must use the DHS-715, Notice of Hearing, to send notification of court hearings.

The DHS-715, Notice of Hearing, must contain the following:

- Name and address of current placement.
- Names of children the court hearing will review.
- Date and time of court hearing.
- Complete court address.
- Deadline for written comments and placement materials.
- Any additional caseworker comments, if applicable.
- Caseworker name, agency, address, and telephone number.

The State Court Administrative Office (SCAO) recommends that for compliance with the time-of-service requirement, courts should provide notice of the hearing to MDHHS in a timely manner, for example, 28 days prior to the hearing, in order for a notice of hearing to be given to the child, the child's caregivers, the non-offending parent, and pre-adoptive parents within the time required in the court rule. If the court provides notice of hearing to the caseworker in a timely manner, the caseworker must send the DHS 715, Notice of Hearing, to the child, foster parents, relative caregivers, the non-offending parent, and/or pre-adoptive parents at least seven calendar days prior to the hearing.

Note: The caseworker can generate and save the DHS-715, Notice of Hearing, in the electronic case management record and it will be printed and mailed by the Consolidated Print Center. Caseworkers can reference the electronic case management system Job Aid: Record a Hearing and Generate a DHS-715, to utilize this function.

Notification of Physician

The court of jurisdiction must notify the attending physician or the child's primary care physician of the time and place of a hearing where consideration is being given to returning the child to their home if the child has been diagnosed with one of the following conditions:

- Failure to thrive.
- Medical child abuse.
- Pediatric abusive head trauma.
- Drug exposure in utero.

- A bone fracture diagnosed by a physician as being the result of abuse or neglect.

Parents Who are Incarcerated

The court must allow a parent who is incarcerated to participate in all review hearings and permanency planning hearings via telephone. The original or amended petition filed by MDHHS, a contracted placing agency foster care (PAFC) provider, or the department's legal representative must notify the court of the parent's incarceration, and the court is responsible for arranging the parent's telephonic participation in the hearings. MDHHS, the PAFC, or the department's legal representative must include the statement: "a telephonic hearing is required pursuant to MCR 2.004," near the top of the petition.

Right to be Heard

The court will consider any written or oral information concerning the child from the child's parents, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem (GAL) in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

Any person or institution providing care for a child in foster care **must** be given the opportunity to submit written or verbal feedback regarding the child to be included in each case service plan. A written statement is preferred and if one is provided it must be attached to the case service plan, before submitting the service plan to the court. If a written statement is not provided, the caseworker must summarize the caregiver's feedback in the case service plan. Requests for caregiver input may be sent on the DHS-715, Hearing Notice, if the court provides notice of hearing to the caseworker in a timely manner.

Note: The caseworker must ensure children know and understand their right to attend and have input in court hearings based on the child's age and level of development. The caseworker must relay the child's desires to have input into their court hearings to the L-GAL or GAL to ensure the child an opportunity to be heard regarding their case. The L-GAL or GAL will relay this information to the court. Discussion with youth regarding their right to be heard and the relaying of the information to the L-GAL or LGAL must be

documented within the social work contacts section in the electronic case management record.

**American
Indian/Alaska
Native (AI/AN)
Children**

If the caseworker knows, has reason to know, or at any time learns, that a child is or may be an AI/AN; see [NAA 210, Notification of Court Proceedings](#).

**DISPOSITIONAL
REVIEW HEARING**

Dispositional review hearings are required 91 days from the original dispositional hearing and every 91 days thereafter for any child subject to the jurisdiction of the court or the supervision of the MCI.

After the first year the child is subject to the court's jurisdiction, a review hearing must be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed.

State law gives courts the authority to take certain actions on temporary ward cases. The court may determine there is an advantage to reviewing a case sooner than the regularly scheduled review hearing. Caseworkers must request a review hearing occur prior to the 91- or 182-day timeframe if a shorter review period is in the child's best interest. The court may decide to return a child to the parental home without a hearing if the parties have received timely notice from the court or the supervising agency.

At a review hearing, the court must review on the record the following:

- Compliance with the case service plan with respect to services provided or offered to the child and the child's parent, guardian, custodian, or nonparent adult if the nonparent adult is required to comply with the case service plan, and whether each of those individuals has complied with and benefited from those services.
- Compliance with the case service plan with respect to parenting time with the child. If parenting time did not occur or

was infrequent, the court must determine why parenting time did not occur or was infrequent.

- The extent to which the parent complied with each provision of the case service plan, prior court orders, and the Parent Agency Treatment Plan (PATP).
- Likely harm to the child if the child continues to be separated from the child's parent, guardian, or custodian.
- Likely harm to the child if the child is returned to the child's parent, guardian, or custodian.
- After review of the case service plan, the court must determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed or remain in foster care. The court may modify any part of the case service plan, including but not limited to:
 - Prescribing additional services necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.
 - Prescribing additional actions to be taken by the parent, guardian, nonparent adult, or custodian, to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

Following the hearing, the court may:

- Continue the dispositional order.
- Modify the dispositional order.
- Enter a new dispositional order.
- Order the return of the child to the custody of the parent if parental rights have not been terminated.

PERMANENCY PLANNING HEARING

Permanency planning hearings are required to review and finalize a permanency plan for a child in foster care. The first permanency planning hearing must occur within 12 months of the date the child was removed from their home. For children who continue in foster care, the court must conduct subsequent permanency planning hearings within 12 months of the previous permanency planning hearing.

Further, if the court determines reasonable efforts to reunify the child and family are not required, then a permanency planning hearing must be held within 30 days of the date of the judicial determination. Reasonable efforts to reunify a child and family are required in all cases except the following:

- There is a judicial determination that a parent has abused the child or placed the child at an unreasonable risk of harm and failed to take reasonable steps to intervene to eliminate the risk and the abuse the child was subjected to included one or more of the following:
 - Abandonment of a young child.
 - Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.
 - Battering, torture, or other severe physical abuse.
 - Loss or serious impairment of an organ or limb.
 - Life threatening injury.
 - Murder or attempted murder.
- The parent has been convicted of one or more of the following:
 - Murder of another child of the parent.
 - Voluntary manslaughter of another child of the parent.
 - Aiding or abetting in the murder of another child of the parent or voluntary manslaughter of another child of the parent, the attempted murder of the child or another child of the parent, or the conspiracy or solicitation to commit the murder of the child or another child of the parent.
 - A felony assault that results in serious bodily injury to the child or another child of the parent.
- The parent's rights to another child were involuntarily terminated.
- The parent is required by court order to register under the Sex Offenders Registration Act.

Case Service Plan Recommendations

The court must conduct permanency planning hearings periodically to review the status of the child and the progress being made toward the child's return home or show why the child should not be placed in the permanent custody of the court. The supervising agency must recommend one of the following when preparing the case service plan for the permanency planning hearing:

- The agency is recommending the court issue an order returning the child to the home of the parent; see [FOM 722-07B, Permanency Planning - Reunification](#).
- The agency is not recommending the court issue an order returning the child to the home of the parent. If this is the recommendation, the service plan must also contain either:
 - A statement that the supervising agency believes it is in the child's best interest for the court to terminate the parents' rights to the child and the reasons why.
 - Documentation regarding the compelling reasons why termination of parental rights is not in the child's best interest.

See [FOM 722-07C, Permanency Planning - Termination of Parental Rights](#).

Note: A parent's resumption of contact or minimal participation in the case plan in the days or weeks immediately preceding the permanency planning hearing is insufficient basis alone for retaining reunification as the permanency plan.

Court Responsibilities

At or before each permanency planning hearing the court is required to do the following:

- Obtain the child's views of their permanency plan in a manner that is appropriate to the child's age.
- Consider in-state and out-of-state placement options if the child will not be returned home.

Note: If a child is already in an out-of-state placement, the court must determine if the placement continues to be appropriate and in the child's best interest.

- Ensure the supervising agency is providing appropriate services to assist a youth who will transition from foster care to independent living.
- Determine whether the agency has made reasonable efforts to finalize the permanency plan. At the hearing, the court must determine whether and, if applicable, when the following must occur:
 - The child may be returned to the parent, guardian, or legal custodian; see [FOM 722-07B, Permanency Planning - Reunification](#).
 - A petition to terminate parental rights should be filed; see [FOM 722-07C, Permanency Planning - Termination of Parental Rights](#).
 - The child may be placed in a legal guardianship; see [FOM 722-07E, Permanency Planning - Guardianship](#).
 - The child may be permanently placed with a fit and willing relative; see [FOM 722-07F, Permanency Planning - PPFWR and APPLA](#).
 - The child may be placed in another planned permanent living arrangement, but only in those cases where the agency has documented a compelling reason for determining it would not be in the best interest of the child to follow one of the options listed above; see [FOM 722-07F, Permanency Planning - PPFWR and APPLA](#).
- Determine whether the supervising agency, foster home, and/or institutional placement followed the reasonable and prudent parenting standard, and that the child has had regular opportunities to engage in age or developmentally appropriate activities.

**Permanency
Planning Hearing
Placement
Determinations**

If the child is a temporary court ward, the court must determine at the permanency planning hearing whether returning the child to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

Reunification

If the court determines the return of the child to the parent would **not** cause a substantial risk of harm to the child, the court must order the child returned to the parent; see [FOM 722-07B, Permanency Planning - Reunification](#).

Termination

If the court determines that the return of the child to the parent would cause substantial risk of harm to the child, the court **may** order the agency to file a petition to terminate parental rights; see [FOM 722-07C, Permanency Planning - Termination of Parental Rights](#).

Alternative Placement Plans

If the supervising agency demonstrates that initiating the termination of parental rights to the child is clearly not in the child's best interests or if the court does not order the agency to initiate proceedings to terminate parental rights, the court must order one of the following alternative placement plans:

- Foster care for a limited period stated by the court.
- Foster care on a long-term basis, if the court determines it is in the child's best interest based on compelling reasons; see [FOM 722-07F, Permanency Planning - PPFWR and APPLA](#).
- Guardianship, which may continue until the child is emancipated; see [GDM 600, Juvenile Guardianship](#).

**POST-TERMINATION
REVIEW HEARING
AND PERMANENCY
PLANNING
HEARINGS**

During combined post-termination review hearings for state wards and permanency planning hearings, the court will review the following:

- Appropriateness of the permanency planning goal.
- Appropriateness of the child's placement in foster care.
- The supervising agency's reasonable efforts to place the child for adoption or in another permanent placement in a timely manner.
- The supervising agency's reasonable efforts to finalize the permanency plan.

**LAWYER-GUARDIAN
AD LITEM (L-GAL)**

The court must appoint a lawyer-guardian ad litem (L-GAL) for a child. The L-GAL's duties include:

- Maintaining attorney-client privilege.
- Representing the child's best interest.
- Determining the facts of the case by conducting an independent investigation including, but not limited to, interviewing the child, caseworkers, family members, and others as necessary, and reviewing relevant reports and other information.
- Reviewing the agency case file before disposition and before the hearing for termination of parental rights.
- Meeting with and observing the child before each of the hearings indicated below, in order to assess the child's needs and wishes concerning representation and issues in the case.
 - Before the pretrial hearing.
 - Before the initial disposition, if held more than 91 days after the petition has been authorized.

- Before a dispositional review hearing.
 - Before a permanency planning hearing.
 - Before a post-termination review hearing.
 - At least once during the pendency of a supplemental petition.
 - At other times as ordered by the court. Adjourned or continued hearings do not require additional visits unless directed by the court.
- Explaining the proceedings to the child in an age-appropriate manner.
 - Filing all necessary pleadings and papers and independently call witnesses on the child's behalf.
 - Attending all hearings and substitute representation for the child only with court approval.
 - Determining the child's best interest regardless of the child's wishes, although the L-GAL must present the child's wishes to the court.
 - Monitoring implementation of the service plan and compliance with the service plan by all parties.
 - Serving the child until discharged by the court, which must not occur if the child is subject to the jurisdiction, control, or supervision of the court, the MCI, or another agency.
 - Identifying common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter through consultation with the child's parent, foster care provider, guardian, and caseworker.
 - When necessary, requesting authorization by the court to pursue issues on the child's behalf that do not arise specifically from the court appointment.

MDHHS and PAFC staff must inform foster parents and relative caregivers they have access to the L-GAL. MDHHS and PAFC staff must facilitate communication between the foster parents, the child, and the L-GAL; see [FOM 722-06H, Case Contacts](#).

GUARDIAN AD LITEM (GAL)

The court may also appoint GAL for the child that is not an attorney to aid the court in determining the child's best interest.

The distinction between the L-GAL for the child and the GAL is:

- The L-GAL represents the child's **preferences** in the same way an attorney would represent an adult client.
- The GAL represents the child's **best interests**, which may differ from the child's preferences.

REFUSAL TO AUTHORIZE OR DISMISS A PETITION

If the prosecutor or the court refuses to authorize **or** dismisses a petition, the supervising agency must immediately forward the petition, along with the pertinent court order, to [Child Welfare Policy Mailbox \(Child-Welfare-Policy@michigan.gov\)](mailto:Child-Welfare-Policy@michigan.gov) and the [Children's Services Agency Legal Division Request for Research Mailbox \(CSARequestforLegalResearch@michigan.gov\)](mailto:CSARequestforLegalResearch@michigan.gov) to determine if the supervising agency should appeal the prosecutor or the court's decision or if other additional steps are required. Notification must occur regardless of the basis for dismissal. If the supervising agency is also requesting legal representation, the supervising agency must contact the [Children's Services Agency Request for Representation Mailbox \(CSARequestforRepresentation@michigan.gov\)](mailto:CSARequestforRepresentation@michigan.gov) with the appropriate request form.

PROBLEM COURT ORDERS

Court decisions, federal statutes, federal regulations, and state law affect the conditions under which MDHHS can accept care and supervision of court wards, MDHHS' jurisdiction over wards committed to the state, and the parameters for provision of care and supervision of temporary and state wards.

Problematic court orders include orders which:

- Conflict with existing federal statutes, federal regulations, state laws, and court decisions.

- Conflict with Title IV-E funding requirements; see [FOM 902, Funding Determinations and Title IV-E Eligibility](#).
- Conflict with state policy.
- Do not include required wording.
- Order the Department/agency to pay for services for which there is not an available funding source.

The supervising agency must take **immediate** action, as any appeal of an order must be filed with the court within 20 calendar days of receipt of the order. The supervising agency must forward copies of problematic court orders to the [Children's Services Agency Legal Division Request for Research Mailbox \(CSARequestforLegalResearch@michigan.gov\)](#) immediately, but no later than the business day following receipt of the order. A written description of the problematic issue and a reference to applicable policy and law is required in the email. The supervising agency must attempt to resolve problematic aspects of the order with the court, up to requesting the court order be modified, while the problematic court order is under review.

Request for Legal Representation

If the local office is also requesting legal representation, the problematic court order and appropriate form requesting legal representation must be sent to the [Children's Services Agency Request for Representation Mailbox \(CSARequestforRepresentation@michigan.gov\)](#); see [APL 403, Lawsuits, Litigation, Legal Documents and Forms](#).

QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) PLACEMENTS

For court requirements when a child will be placed in a Qualified Residential Treatment Program (QRTP); see [FOM 912, Residential Services: Caseworker Responsibilities](#).

RESOURCES

DHS-715, Notification of Hearing
(<https://www.michigan.gov/mdhhs/doing-business>)

LEGAL AUTHORITY**Federal**

Social Security Act, 42 U.S.C. 671(a)(15)(E)(i)

Social Security Act, 42 U.S.C. 671(a)(27)

Social Security Act, 42 U.S.C. 675(5)(B)

Social Security Act, 42 U.S.C. 675(5)(C)

Social Security Act, 42 U.S.C. 675(5)(G)

45 CFR 1356.21(i)(2)

State

Michigan Children's Institute, 1935 PA 220, et seq.

Probate Code, 1939 PA 288, as amended, MCL 710.28

Probate Code, 1939 PA 288, as amended, MCL 712A.1-2

Probate Code, 1939 PA 288, as amended, MCL 712A.17d

Probate Code, 1939 PA 288, as amended, MCL 712A.18f

Probate Code, 1939 PA 288, as amended, MCL 712A.19

Probate Code, 1939 PA 288, as amended, MCL 712A.19a

Probate Code, 1939 PA 288, as amended, MCL 712A.19c

**Michigan Court
Rule**

MCR 2.004

MCR 3.920

MCR 3.921

POLICY CONTACT

Questions about this policy item may be directed to the [Child Welfare Policy Mailbox \(Child-Welfare-Policy@michigan.gov\)](mailto:Child-Welfare-Policy@michigan.gov).